

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

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SEP 14 2012

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2012-0298-PR
)	DEPARTMENT A
Respondent,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
ANGEL MICHAEL CAYEROS,)	the Supreme Court
)	
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF MARICOPA COUNTY

Cause No. CR2009159815001DT

Honorable Arthur T. Anderson, Judge

REVIEW GRANTED; RELIEF DENIED

William G. Montgomery, Maricopa County Attorney
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HOWARD, Chief Judge.

¶1 Pursuant to a plea agreement entered at a settlement conference, petitioner Angel Cayeros was convicted of aggravated robbery with one historical prior felony conviction and sentenced to a stipulated, slightly aggravated prison term of seven years. Cayeros challenged the validity of the plea in his petition for post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P., and the court denied relief. This petition for review followed. We will not disturb the trial court’s ruling absent a clear abuse of discretion. *See State v. Bennett*, 213 Ariz. 562, ¶ 17, 146 P.3d 63, 67 (2006).

¶2 In his petition for post-conviction relief, Cayeros argued, as he had in a motion to withdraw the plea he had filed before sentencing but the trial court denied, there was an insufficient factual basis to support the plea. In a thorough, well-reasoned minute entry, the court rejected his argument, which it clearly identified, and resolved correctly and in a manner that permitted review by this court. No purpose would be served by restating the court’s ruling here. Rather, we adopt the court’s ruling. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). Specifically, based on the extended record, Cayeros has not sustained his burden of demonstrating the court abused its discretion when it found that the commissioner who had accepted the plea had been presented with sufficient information to establish Cayeros had used force to gain possession of beer he had taken in the charged crime, had done so in the presence of accomplices, and had not used such force merely to escape. *See A.R.S. §§ 13-1901 through 13-1903; see also State v. Celaya*, 135 Ariz. 248, 252, 660 P.2d 849, 853 (1983) (robbery occurs when force used “to either take the property or to resist the retaking of

the property,” but “is not committed when the thief has gained peaceable possession of the property and uses no violence except to resist arrest or effect his escape”).

¶3 We grant Cayeros’s petition for review but we deny relief.

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge

CONCURRING:

/s/ Peter J. Eckerstrom
PETER J. ECKERSTROM, Presiding Judge

/s/ J. William Brammer, Jr.
J. WILLIAM BRAMMER, JR., Judge